

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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NASHVILLE, TENNESSEE 37243

September 29, 2005

Opinion No. 05-148

Application of UAPA

QUESTION

Does the Uniform Administrative Procedures Act, and Tenn. Code Ann. § 4-5-223 in particular, apply to the Knoxville-Knox County Community Action Committee?

OPINION

No. The Knoxville-Knox County Community Action Committee has no statutory authority to promulgate rules or conduct contested case hearings and is therefore not an “agency” subject to the Uniform Administrative Procedures Act.

ANALYSIS

Generally, community action agencies (“CAAs”) are non-profit private and public entities originally established under the Economic Opportunity Act of 1964 (“EOA”) to reduce poverty in their communities by administering a variety of funding programs designed to address issues associated with poverty. 42 U.S.C. § 2701 *et seq.* (repealed 1981). In Tennessee, the governor was designated as the state official responsible for compliance with the EOA and the counties, cities and towns were authorized to create agencies to provide services under the EOA. Tenn. Code Ann. § 71-5-1101 *et seq.* (declared obsolete 2004).

In 1981, Congress repealed the EOA and enacted, as the successor to most EOA programs, the Community Services Block Grant Program. 42 U.S.C. § 9901 *et seq.* (1998). The CAAs continued to provide services, but under the Community Services Block Grant Program. The Community Services Block Grant Program channels federal funds through the states to local agencies and is one source of funding for CAAs. 42 U.S.C. §§ 9901, 9904, 9907(a), 9908, 9909, and 9910 (1998). CAAs may also receive funding from state, local, and private sources.

The Tennessee Department of Human Services is the state agency designated to administer the Community Services Block Grant Program. Executive Order No. 32 (February 11, 1983). DHS is responsible for awarding grants and contracts to CAAs for the provision of services funded by the program and for monitoring the CAAs’ expenditure of those funds. 42 U.S.C. §§ 9914 - 9916 (1998); Tenn. Code Ann. §§ 71-1-105 and 71-5-107 (2004).

It is our understanding that the Knoxville-Knox County Community Action Committee is a local public CAA which provides the Knox County area with a variety of federal, state, and locally funded programs. The programs and services provided by the Knoxville-Knox County Community Action Committee include case management, information and referral services at neighborhood centers; leadership training programs; Americorps; Head Start; energy assistance, weatherization, and home repair programs; employment assistance and training; youth program activities; and senior services such as the senior nutrition program, foster grandparent program, transportation, recreation, fitness, and adult day care services at senior citizen centers. The Knoxville-Knox County Community Action Committee is governed by a board of directors composed of 30 members. Ten board members are public officials, ten members are elected by neighborhood organizations that represent low-income persons, and ten are selected by the board from interest groups in the community. The board is responsible for appointing persons to senior staff positions, determining fiscal and program policies, assuring compliance with conditions of and approving proposals for financial assistance from available sources, and ensuring that the Knoxville-Knox County Community Action Committee's programs comply with the Community Services Block Grant Act.

The Uniform Administrative Procedures Act ("UAPA") applies to every "agency," which is defined as "each state board, commission, committee, department, officer, or any other unit of state government authorized or required by any statute or constitutional provision to make rules or to determine contested cases." Tenn. Code Ann. § 4-5-102(2) (1998 & Supp. 2004). No statute or constitutional provision authorizes or requires the Knoxville-Knox County Community Action Committee to make rules or to determine contested cases. Therefore, the Knoxville-Knox County Community Action Committee is not an "agency" as contemplated by the UAPA.

You asked specifically whether Tenn. Code Ann. § 4-5-223 applies to the Knoxville-Knox County Community Action Committee. Tenn. Code Ann. § 4-5-223(a) provides that "[a]ny affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency." Tenn. Code Ann. § 4-5-223(a) (1998 & Supp. 2004). Since the Knoxville-Knox County Community Action Committee is not an "agency" as contemplated by the UAPA, Tenn. Code Ann. § 4-5-223 is not applicable.

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